

REMARKS

This application has been carefully reviewed in light of the Office Action (made final) mailed January 14, 2009 (the "Office Action"). As of the date of the Office Action, claims 1-22 are pending in the application, of which claims 3 and 18-21 were previously withdrawn from consideration. Claims 1, 2, 4-17 and 22 have been rejected. Independent claim 1 has been amended in this response. New claims 23-33 have been added.

For the reasons set forth more specifically below, Applicants submit that the pending claims are patentable over the cited art of record. Applicants' claims are directed to an apparatus for simulating and testing non-soil products in subterranean soil installations, the apparatus containing, among other things, a container, which has a base, two opposing sides and two opposing ends, the two opposing sides and ends together forming a continuous perimeter boundary of defined size. At least one of the opposing ends of the container is not fixed to the base or the opposing sides, but rather, is under close fit tolerances along its edges. Upon application of a load means applying vertical pressure to the soil and non-soil product buried therein which results in a horizontal pressure, Applicants' novel apparatus is configured such that at least one of the ends moves outwardly resulting in the defined size of the continuous perimeter boundary being increased, for example as recited in Applicants' claim 1. Specifically, this increase in size is a result of at least the outward movement of at least one of the ends (which is not fixed to the base or sides but is under close fit tolerances along its edges) as a result of the horizontal pressure caused by application of the vertical pressure.

Section 102 and 103 Rejections

In the Office Action, claims 1, 2, 4, 5, 14-16 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,474,066 to Lutenegeger ("Lutenegeger"). Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutenegeger in view of U.S. Pat. No. 5,388,464 to Maddison ("Maddison"). Claims 7, 8, 12, 13 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutenegeger in view of U.S. Pat. No. 4,483,197 to Kellner ("Kellner"). Claims 9-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutenegeger in view of U.S. Pat. No. 3,635,078 to Wissa ("Wissa"). Applicants respectfully traverse the rejections.

Turning now to the specifics of the rejections, Applicants briefly discuss the principal cited reference Lutenegeger. The Lutenegeger device is for testing soil (and is not adapted for testing products buried in the soil) and principally employs a cylindrical container having a

vertical slit 44 “along its entire length parallel to the longitudinal axis of the cylindrical receptacle 38” (see Col. 3, lines 40-41). The vertical slit 44 “defines edge portions which are capable of yieldably expanding away from one another.” (Col. 3, lines 42-43). Blocks 50 and 52 are secured to the exterior surface of the receptacle 38, but block 50 (and by nature, the corresponding side of the receptacle 38) is prevented from any movement (see Col. 3, lines 53-54; see also Col. 4, lines 40-42). Only block 52 is permitted to move laterally away in response to vertical pressure (see Col. 3, line 68).

Applicants respectfully submit that Lutenegger does not, either alone or in combination with the other references cited, disclose or suggest an apparatus for simulating and testing non-soil products in subterranean soil installations, having, among other things, a container having two opposing sides and two opposing ends, the two opposing sides and ends together forming a “continuous perimeter boundary of a defined size” for example as recited in Applicants’ present claim 1. As described above, the Lutenegger device employs a receptacle that is split down its side forming separate defined edges not in contact with one another, and which expand away from each other. None of the art of record discloses or suggests Applicants’ novel apparatus which utilizes a container having a continuous perimeter boundary having at least one opposing end that is not fixed to the base or a side, but rather, is under close fit tolerances along its edges, for example, as recited in Applicants’ claim 1. Applicants further submit that none of the art of record, either alone or in combination, discloses or suggests an apparatus that is configured such that as at least one of the ends moves outwardly, the defined size of the continuous perimeter boundary is increased.

For the foregoing reasons, Applicants respectfully submit that Applicants’ present claims are patentable over the art of record and respectfully request that the rejections under Section 102 and 103 be withdrawn.

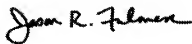
CONCLUSION

Applicants have made a diligent effort to advance the prosecution of this application by complying with the requirements of the Office Action. Favorable consideration and an early allowance of the pending claims is respectfully requested. Applicants hereby authorize the Commissioner to charge any fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,

GARDERE WYNNE SEWELL LLP



Jason R. Fulmer
Registration No. 46,715

ATTORNEYS FOR APPLICANTS

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1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
(214) 999-4330 - Telephone
(214) 999-3623 – Facsimile